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SUBSIDIARY BODY FOR IMPLEMENTATION

REPORT OF THE SUBSIDIARY BODY FOR IMPLEMENTATION ON ITS TWELFTH SESSION, BONN, 12-16 JUNE 2000

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I. OPENING OF THE SESSION
(Agenda item 1)

1. The twelfth session of the Subsidiary Body for Implementation (SBI) was held at the Hotel Maritim, Bonn, Germany from 12 to 16 June 2000.

2. The Chairman of the SBI, Mr. John Ashe (Antigua and Barbuda), opened the session on 12 June 2000. The Chairman welcomed all Parties and Observers to the session. He noted that this twelfth session was an unusual one, as it came after a week of informal meetings and workshops during which in-depth discussions had been held on several issues. The Chairman remarked that the pre-sessional week had yielded important progress, on which the SBI should now build to pave the way for success at the sixth session of the Conference of the Parties (COP 6). He emphasized that, for many issues, the aim for the twelfth session of the SBI should be to agree on negotiating texts that would prepare the ground for substantive negotiations at the thirteenth sessions of the subsidiary bodies. He reported that the Convention had now received a total of 184 instruments of ratification, acceptance, approval or accession, while the number of ratifications or accessions to the Kyoto Protocol had reached 22. He concluded by urging Parties to use the limited time available as efficiently as possible.

3. The Executive Secretary conveyed his best wishes to Mr. Klaus Töpfer, Executive Director of the United Nations Environment Programme, for a speedy recovery from his recent illness.

4. At the 2nd meeting, held jointly with the Subsidiary Body for Scientific and Technological Advice (SBSTA) on 12 June, general statements were made by representatives of four Parties, including one speaking on behalf of the Group of 77 and China. The chairmen of the subsidiary bodies recalled that informal meetings and workshops had been held during the pre-sessional week on joint agenda items as well as on capacity-building and cross-cutting issues.

II. ORGANIZATIONAL MATTERS
(Agenda item 2)

A. Adoption of the agenda
(Agenda item 2 (a))

5. At its 1st meeting, on 12 June, the SBI considered the provisional agenda contained in document FCCC/SBI/2000/1.

6. The SBI adopted the following agenda:

1. Opening of the session.

2. Organizational matters:

   (a) Adoption of the agenda;
   (b) Organization of the work of the session.

3. Implementation of Article 4.8 and 4.9 of the Convention (decision 3/CP.3 and Articles 2.3 and 3.14 of the Kyoto Protocol).

4. Matters relating to Article 3.14 of the Kyoto Protocol.

5. Procedures and mechanisms relating to compliance under the Kyoto Protocol.

6. Mechanisms pursuant to Articles 6, 12 and 17 of the Kyoto Protocol.

7. National communications from Parties included in Annex I to the Convention: experience with the review of second national communications.

8. National communications from Parties not included in Annex I to the Convention:

   (a) Report of the first meeting of the Consultative Group of Experts;
   (b) Provision of financial and technical support.

9. Financial mechanism:

   (a) Progress report on the review by the Global Environment Facility of its enabling activities;
   (b) Progress report by the Global Environment Facility on its capacity-building activities;
   (c) Additional guidance to the Global Environment Facility: support to the Intergovernmental Panel on Climate Change.

10. Arrangements for intergovernmental meetings.

11. Administrative and financial matters.

12. Report on the session.

B. Organization of the work of the session
(Agenda item 2 (b))

7. The SBI considered this sub-item at its 1st meeting, on 12 June. It had before it the tentative schedule of meetings contained in document FCCC/SBI/2000/1, annex III. The Chairman noted that the tentative schedule of meetings should be used as a guide to the

organization of work of the SBI, but that flexibility would be required to respond to the pace of progress.

III. IMPLEMENTATION OF ARTICLE 4.8 AND 4.9 OF THE CONVENTION (DECISION 3/CP.3 AND ARTICLES 2.3 AND 3.14 OF THE KYOTO PROTOCOL)

(Agenda item 3)

MATTERS RELATING TO ARTICLE 3.14 OF THE KYOTO PROTOCOL

(Agenda item 4)

1. Proceedings

8. The SBI considered these items together at its 2nd and 5th meetings, held jointly with the SBSTA, on 12 and 16 June respectively. It had before it document FCCC/SB/2000/2.

9. Statements were made by representatives of 33 Parties, including one speaking on behalf of the African group, one speaking on behalf of the Alliance of Small Island States, one speaking on behalf of the European Community and its member States and one speaking on behalf of the Group of 77 and China.

10. At the 2nd meeting, held jointly with the SBSTA on 12 June, the Chairman of the SBSTA provided a report on the outcome of the workshops mandated by decision 12/CP.5[1] on these items, which were held in Bonn from 9 to 11 March 2000 and from 13 to 15 March 2000. Mr. Bo Kjellen (Sweden) and Mr. Mohamad Reza Salamat (Islamic Republic of Iran), Vice-Chairman of the SBI, provided a report on the informal meetings relating to these items, which they had chaired during the pre-sessional week at the request of the chairmen of the subsidiary bodies. The subsidiary bodies agreed to consider these items by way of a joint contact group. The chairmen appointed Mr. Kjellen and Mr. Salamat to co-chair this contact group.

11. The discussions in the contact group covered a wide range of issues and enabled a better understanding of the specific needs and concerns of developing country Parties arising from the adverse effects of climate change and the impact of the implementation of response measures, under Article 4.8 and 4.9 of the Convention. The same contact group also discussed matters related to Article 3.14 of the Kyoto Protocol.

12. The discussions greatly benefited from the report on the two workshops mentioned in paragraph 10 above. In the course of the discussions, delegations were invited to provide inputs. Subsequently, the co-chairs of the contact group presented a consolidated text, based on the discussions, the inputs and the report of the workshops mentioned in paragraph 10 above. In ensuing sessions there were further discussions on the consolidated text.

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[1] For the full texts of decisions adopted by the Conference of the Parties at its fifth session, see document FCCC/CP/1999/6/Add.1.

2. Conclusions

13. At its 5th meeting, held jointly with the SBSTA on 16 June, having considered a proposal by the chairmen, the SBSTA and the SBI adopted the following conclusions:

(a) The subsidiary bodies considered the report on the two workshops held in Bonn from 9 to 11 March and from 13 to 15 March 2000, and contained in document FCCC/SB/2000/2, and acknowledged the importance of the information provided in the workshops as a valuable input to the work relating to the implementation of Article 4.8 and 4.9 of the Convention, as well as to Articles 2.3 and 3.14 of the Kyoto Protocol;

(b) The subsidiary bodies noted the progress made on addressing the implementation of Article 4.8 and 4.9 of the Convention;

(c) The subsidiary bodies also noted that discussion had commenced on matters relating to Article 3.14 of the Kyoto Protocol;

(d) The subsidiary bodies agreed to forward to their thirteenth sessions the note by the chairmen of the subsidiary bodies (FCCC/SB/2000/5) containing a consolidated text and other inputs from Parties;

(e) The subsidiary bodies invited their chairmen, with the assistance of the secretariat, to develop a text on these issues, on the basis of the consolidated text and other inputs from Parties, as well as comments made in the course of the discussions, to serve as a basis for negotiation at the thirteenth sessions of the subsidiary bodies.

IV. PROCEDURES AND MECHANISMS RELATING TO COMPLIANCE UNDER THE KYOTO PROTOCOL

(Agenda item 5)

1. Proceedings

14. The SBI considered this item at its 2nd and 5th meetings, held jointly with the SBSTA, on 12 and 16 June respectively. It had before it the following documents: FCCC/SB/2000/1 and FCCC/SB/2000/MISC.2 and Corr.1.

15. At the joint meeting on 12 June, Mr. Tuiloma Neroni Slade (Samoa) provided a report on the informal meetings relating to this item, which he had chaired during the pre-sessional week together with Mr. Harald Dovland (Norway), Chairman of the SBSTA, at the request of the chairmen of the subsidiary bodies. The chairmen referred discussion of this item to the

Joint Working Group on Compliance (JWG) established by decision 8/CP.4,[2] under the co-chairmanship of Mr. Dovland and Mr. Slade.

16. At the joint meeting on 16 June, Mr. Slade presented the report of the JWG on its work during the twelfth sessions of the subsidiary bodies (FCCC/SB/2000/CRP.3/Rev.1).

2. Conclusions

17. At the joint meeting on 16 June, the SBSTA and the SBI took note of the report of the JWG, and agreed that it would be annexed to the report of the SBI (see annex III below).

V. MECHANISMS PURSUANT TO ARTICLES 6, 12 AND 17 OF THE KYOTO PROTOCOL

(Agenda item 6)

1. Proceedings

18. The SBI considered this item at its 2nd and 5th meetings, held jointly with the SBSTA, on 12 and 16 June respectively. It had before it the following documents: FCCC/SB/2000/3 and FCCC/SB/2000/MISC.1 and Add.1-2.

19. Statements were made by representatives of 11 Parties, including one speaking on behalf of the Eastern European group, one speaking on behalf of the European Community and its member States and one speaking on behalf of the Group of 77 and China.

20. At the joint meeting on 12 June, a report was provided by Mr. Kok Kee Chow (Malaysia) on the workshop he had chaired relating to this item in the pre-sessional week, at the request of the chairmen of the subsidiary bodies. The subsidiary bodies agreed to consider this item by way of a joint contact group, chaired by Mr. Chow.

2. Conclusions

21. At the joint meeting on 16 June, having considered a proposal by the chairmen, the subsidiary bodies adopted the following conclusions:

(a) The subsidiary bodies considered the note by the chairmen contained in document FCCC/SBI/2000/3, submissions by Parties contained in document FCCC/SB/2000/MISC.1 and Add.1-2 and the informal note by the Chairman of the workshop on mechanisms (Bonn, 5-8 June 2000);

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[2] For the full texts of decisions adopted by the Conference of the Parties at its fourth session, see document FCCC/CP/1998/16/Add.1.

(b) The subsidiary bodies noted the progress made in implementing the work programme on mechanisms contained in decision 7/CP.4;

(c) The subsidiary bodies, recalling decision 14/CP.5, agreed to forward to the thirteenth sessions of the subsidiary bodies the note by the chairmen of the subsidiary bodies contained in document FCCC/SB/2000/4, entitled "Consolidated text on principles, modalities, rules and guidelines", as a basis for further negotiations on mechanisms pursuant to Articles 6, 12 and 17 of the Kyoto Protocol, with priority given to the clean development mechanism, and with a view to the COP taking decisions on all the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol at its sixth session, including, where appropriate, recommendations to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its first session;

(d) The subsidiary bodies urged Parties, if they wish to make additional submissions, to do so in succinct, legal language and directly related to the text in document FCCC/SB/2000/4, by 1 August 2000, for inclusion in a miscellaneous document to be issued before the thirteenth sessions of the subsidiary bodies. Submissions received later would be issued at the thirteenth sessions.

VI. NATIONAL COMMUNICATIONS FROM PARTIES INCLUDED IN ANNEX I TO THE CONVENTION: EXPERIENCE WITH THE REVIEW OF SECOND NATIONAL COMMUNICATIONS

(Agenda item 7)

1. Proceedings

22. The SBI considered this item at its 1st and 4th meetings, on 12 and 14 June respectively. It had before it the following documents: FCCC/SBI/2000/3 and FCCC/SBI/2000/INF.6.

23. Statements were made by representatives of six Parties, including one speaking on behalf of the European Community and its member States.

2. Conclusions

24. At its 4th meeting, on 14 June, having considered a proposal by the Chairman, the SBI adopted the following conclusions:

(a) The SBI took note of the information and options contained in document FCCC/SBI/2000/3 on the experience with the review of second national communications of Annex I Parties and the information contained in document FCCC/SBI/2000/INF.6 on the progress made with in-depth reviews of second national communications;

(b) The SBI welcomed the fact that the majority of in-depth review visits had taken place and that most of the corresponding reports had been published. It requested the secretariat to conduct as soon as practicable the reviews of those national communications yet to be submitted, and to encompass requests by Parties for review;

(c) The SBI concluded that it would consider at its fourteenth session the issue of developing guidelines for the review of national communications under the Convention, including the options described in document FCCC/SBI/2000/3, and that its considerations at that session should also take into account the guidelines to be developed for the review of national communications under Article 8 of the Kyoto Protocol;

(d) The SBI requested the secretariat to organize in 2001 a workshop, subject to the availability of resources, to exchange information among Annex I Parties on preparations for third national communications and ways to ensure expertise in the review process.

VII. NATIONAL COMMUNICATIONS FROM PARTIES NOT INCLUDED IN ANNEX I TO THE CONVENTION

(Agenda item 8)

A. Report of the first meeting of the Consultative Group of Experts

(Agenda item 8 (a))

1. Proceedings

25. The SBI considered this sub-item at its 1st and 4th meetings, on 12 and 14 June respectively. It had before it document FCCC/SBI/2000/INF.4.

26. Statements were made by representatives of six Parties, including one speaking on behalf of the European Community and its member States.

27. At its 1st meeting, on 12 June, at the invitation of the Chairman, the newly elected Chairman of the Consultative Group of Experts on National Communications from Parties Not Included in Annex I to the Convention (CGE), Mr. José Miguez (Brazil), provided the SBI with an oral report on the Group's first meeting.

2. Conclusions

28. At its 4th meeting, on 14 June, having considered a proposal by the Chairman, the SBI adopted the following conclusions:

(a) The SBI noted with appreciation the information presented by the Chairman of the CGE and in document FCCC/SBI/2000/INF.4, regarding the work plan of the CGE for the period 2000-2001 and the conclusions and recommendations of its regional workshop for Latin America and the Caribbean, respectively;

(b) The SBI took note of views expressed by Parties on the work plan of the CGE and urged the Group to provide, in accordance with decision 8/CP.5, specific recommendations for the improvement of the national communications from Parties not included in Annex I to the Convention, for consideration by the subsidiary bodies at their fourteenth sessions, in order that a decision could be taken at COP 7;

(c) The SBI urged Annex II Parties to contribute financially to the work of the CGE;

(d) The SBI decided to continue its consideration of this sub-item at its resumed thirteenth session, by requesting the Chairman of the CGE to present an updated report on the work of the Group.

B. Provision of financial and technical support
(Agenda item 8 (b))

1. Proceedings

29. The SBI considered this sub-item at its 1st and 4th meetings, on 12 and 14 June respectively. It had before it the following documents: FCCC/SBI/2000/INF.1 and FCCC/SBI/2000/INF.2.

30. Statements were made by representatives of two Parties.

2. Conclusions

31. At its 4th meeting, on 14 June, having considered a proposal by the Chairman, the SBI adopted the following conclusions:

(a) The SBI noted with appreciation the information contained in document FCCC/SBI/2000/INF.1 about the activities undertaken by the secretariat to facilitate the provision of financial and technical support, and the status of preparation of communications from Parties not included in Annex I to the Convention;

(b) The SBI took note of views expressed by Parties and of the information on action taken by the Global Environment Facility (GEF) to provide financial and technical assistance for the preparation of initial national communications contained in document FCCC/SBI/2000/INF.2.

VIII. FINANCIAL MECHANISM
(Agenda item 9)

A. Progress report on the review by the Global Environment Facility of its enabling activities
(Agenda item 9 (a))

B. Progress report by the Global Environment Facility on its capacity-building activities
(Agenda item 9 (b))

1. Proceedings

32. The SBI considered these sub-items together at its 1st and 4th meetings, on 12 and 14 June respectively. It had before it the following documents: FCCC/SBI/2000/INF.3 and FCCC/SB/2000/INF.4.

33. At its 1st meeting, on 12 June, at the invitation of the Chairman, the secretariat of the Global Environment Facility provided the SBI with an oral report on both of these sub-items.

34. Statements were made by representatives of 10 Parties, including one speaking on behalf of the Alliance of Small Island States, one speaking on behalf of the European Community and its member States, and one speaking on behalf of the Group of 77 and China.

2. Conclusions

35. At its 4th meeting, on 14 June, having considered a proposal by the Chairman, the SBI adopted the following conclusions:

(a) The SBI took note of the report of the Global Environment Facility on progress in the review of its enabling activities, its capacity-building activities in its normal work programme, its Country Dialogue Workshops and its Capacity Development Initiative (CDI) (FCCC/SB/2000/INF.4);

(b) The SBI noted with satisfaction the work undertaken so far by the GEF in its review of enabling activities and further noted the importance of the review process being transparent, involving key stakeholders in the countries concerned and addressing gaps in information on capacity-building needs and priorities;

(c) The SBI requested that the final report of the GEF reflect both the achievements and the problems encountered in the implementation of enabling activities;

(d) The SBI recognized that the findings of the review of enabling activities could provide inputs to the UNFCCC negotiations on capacity-building;

(e) The SBI invited the GEF Council to forward the report on the review of its enabling activities for consideration by the Conference of the Parties at its sixth session;

(f) The SBI noted with appreciation the progress made by the GEF in the preparation of its Capacity Development Initiative;

(g) The SBI stressed that the CDI process should be country-driven, take long-term perspectives on capacity-building needs and priorities, and ensure that this process takes into consideration the progress made in capacity-building negotiations under the UNFCCC.

C. Additional guidance to the Global Environment Facility: support to the Intergovernmental Panel on Climate Change

(Agenda item 9 (c))

1. Proceedings

36. The SBI considered this sub-item at its 1st and 4th meetings, on 12 and 14 June respectively.

37. Statements were made by representatives of two Parties, including one speaking on behalf of the European Community and its member States.

38. At its 1st meeting, on 12 June, at the invitation of the Chairman, the Chairman of the Intergovernmental Panel on Climate Change (IPCC), Mr. Robert Watson, provided the SBI with an oral status report on this matter.

2. Conclusions

39. At its 4th meeting, on 14 June, having considered a proposal by the Chairman, the SBI adopted the following conclusions:

(a) The SBI took note of the statement by the Chairman of the IPCC about the status of a project on "Assessment of Impacts of, and Adaptation to, Climate Change in Multiple Regions and Sectors in Coordination with the IPCC". A project feasibility proposal had recently been approved by the Global Environment Facility;

(b) The SBI noted the importance of the project's objectives, namely, to develop national and regional capacity to undertake assessments of climate change impacts and adaptation response options, and to improve the level of participation of developing country experts in the IPCC assessments of climate change;

(c) The SBI anticipated with satisfaction the consideration of the full project by the GEF Council at its next meeting and its prompt implementation;

(d) The SBI requested the Chairman of the IPCC, in consultation with the GEF Secretariat, to report on the further development of the project at its thirteenth and fourteenth sessions.

IX. ARRANGEMENTS FOR INTERGOVERNMENTAL MEETINGS
(Agenda item 10)

1. Proceedings

40. The SBI considered this item at its 3rd meeting, on 13 June. It had before it document FCCC/SBI/2000/4, which was introduced by the Executive Secretary.

41. Statements were made by representatives of 14 Parties, including one speaking on behalf of the African group, one speaking on behalf of the European Community and its member States, and one speaking on behalf of the Group of 77 and China.

42. The representative of France made a statement on the arrangements for the thirteenth sessions of the subsidiary bodies to be held in Lyon. The representative of Morocco formally offered to host the seventh session of the Conference of the Parties in Marrakech. The representative of the Netherlands reiterated that the aim of his Government was to create an enabling environment for a successful sixth session of the Conference of the Parties in The Hague.

2. Conclusions

43. At its 3rd meeting, on 13 June, having considered a proposal by the Chairman, the SBI adopted the following conclusions:

(a) The SBI welcomed the generous offer of the Government of France to host the thirteenth sessions (first part; see also subparagraph (d) below) of the subsidiary bodies in the city of Lyon and requested the Executive Secretary to conclude a host country agreement with the Government of France on arrangements for the sessions. The SBI underlined the importance of achieving substantial progress, engendering political visibility and building momentum in Lyon;

(b) The SBI welcomed the designation of Mr. Jan Pronk, Minister of Housing, Spatial Planning and the Environment of the Netherlands, for the office of President of COP 6;

(c) The SBI noted that the Executive Secretary would take into account views expressed by Parties at its twelfth session when preparing the provisional agenda for the sixth

session of the Conference of the Parties in accordance with rule 9 of the draft rules of procedure being applied;

(d) The SBI concluded that the opening of COP 6 should take place on Monday, 13 November 2000 to elect the President and to consider certain organizational matters, to be followed immediately by the second part of the thirteenth sessions of the subsidiary bodies that would recommend decisions and conclusions for adoption by COP 6. The SBI endorsed the scenario for the organization of COP 6 set out in document FCCC/SBI/2000/4, paragraphs 11-12;

(e) The SBI underlined the importance of enhanced participation in COP 6 and the important meetings leading up to it. It expressed the hope that additional contributions to the Trust Fund for Participation in the UNFCCC Process would be forthcoming in the next few months;

(f) The SBI took note of the dates proposed by the secretariat for the sessional periods in 2004 and decided to recommend the following for adoption by COP 6:

(i) First sessional period: from 14 to 25 June 2004,
(ii) Second sessional period: from 29 November to 10 December 2004;

(g) The SBI welcomed the generous offer by Morocco to host the seventh session of the COP and requested the secretariat to review the facilities and report to the SBI at its thirteenth session, with a view to the SBI agreeing on the text of a draft COP decision at the first part of that session;

(h) The SBI requested the secretariat to prepare elements of a draft input on the UNFCCC process to the 10-year comprehensive review of the United Nations Conference on Environment and Development (Rio+10), which is to take place in the year 2002, for consideration at its fourteenth session, with a view to recommending a draft decision for adoption by COP 7.

X. ADMINISTRATIVE AND FINANCIAL MATTERS
(Agenda item 11)

Late payment of contributions: response options

1. Proceedings

44. The SBI considered this item at its 1st and 6th meetings, on 12 and 16 June respectively. It had before it the following documents: FCCC/SBI/2000/2 and FCCC/SBI/2000/INF.5.

45. Statements were made by representatives of nine Parties, including one speaking on behalf of the European Community and its member States.

46. At its 1st meeting, on 12 June, the SBI considered the report of the Executive Secretary on late payment of contributions: response options, as provided in document FCCC/SBI/2000/2. After listening to the presentation by the Executive Secretary and comments by several delegations, some of which expressed concern over the additional options contained in paragraph 19 of the above-mentioned document, the Chairman asked Mr. Mohamed M. Ould El Ghaouth (Mauritania) to conduct informal consultations with interested Parties.

2. Conclusions

47. At its 6th meeting, on 16th June, having considered a proposal by the Chairman, the SBI adopted the following conclusions:

(a) The SBI requested the Executive Secretary to submit further relevant information at its thirteenth session, after consulting with the United Nations on its practices in responding to late payment of contributions, for consideration by the SBI at that session;

(b) The SBI decided to transmit an initial draft decision proposed by the Chairman, which was not considered at its twelfth session, for consideration at its thirteenth session in September, with a view to recommending a draft decision for adoption by COP 6 (see annex I below).

Implementation of the Headquarters Agreement

1. Proceedings

48. At the 3rd meeting, on 13 June, the Executive Secretary made a statement on the implementation of the Headquarters Agreement. He addressed matters related to the integration of the United Nations, its staff and their families in the host country and the growing needs of the UNFCCC secretariat for office space to carry out the growing work programme required by the Parties. He expressed appreciation for improvements achieved in these areas, through the actions of the Government of Germany and the city of Bonn, and highlighted some outstanding difficulties.

49. The representative of the host Government made a statement confirming the continuing commitment of the Government of Germany to provide the best possible working conditions for the United Nations in Bonn. He outlined his Government's current efforts to respond to the evolving needs of all United Nations entities in this city, *inter alia* by finding a durable solution to their accommodation needs at one site.

50. Statements were made by nine Parties, including one speaking on behalf of the Group of 77 and China.

2. Conclusions

51. At its 6th meeting, on 16 June, having considered a proposal by the Chairman, the SBI adopted the following conclusions:

(a) The SBI welcomed the continuing commitment of the Government of Germany to develop Bonn as a centre for international cooperation and a location for United Nations activities and to provide the best possible working conditions for the United Nations in Bonn. It noted with appreciation the improvements achieved and with concern the outstanding difficulties mentioned by the Executive Secretary;

(b) The SBI welcomed the statement made by the representative of Germany reiterating his Government's commitment to accommodate the UNFCCC secretariat and the other United Nations organizations in Bonn at one site. The SBI supported the concept under discussion to meet this need by rebuilding the former parliamentary complex in Bonn into an international conference and congress centre, including a new plenary hall;

(c) The SBI noted that the UNFCCC secretariat had outgrown the space available to it in the premises it shares with other United Nations entities in Bonn. It further noted the offer of the host Government to satisfy the secretariat's need for additional space on an interim basis, while awaiting the availability of the proposed centre for international cooperation. It noted with concern that the interim accommodation offered would split the secretariat into two locations and noted that a need for additional office space might arise from future growth in the programme budget approved by the Conference of the Parties. It invited the host Government to renew its efforts to provide the secretariat with sufficient and suitable interim accommodation at one site;

(d) The SBI further noted with concern the difficulties experienced by some delegates in obtaining visas before departure from their home countries, especially for a sufficient length of stay in Germany, and by the UNFCCC secretariat with regard to visas, residence status and work permits for family members. It welcomed the assurance of the host Government that it would strengthen its efforts to develop better practices in these matters and its appointment of a contact person to address existing problems in cooperation with the secretariat;

(e) The SBI decided to consider these matters further at the first part of its thirteenth session and invited the delegation of Germany and the Executive Secretary to provide information to it on that occasion regarding further improvements achieved and other steps taken to address the concerns expressed above, in accordance with relevant provisions of the Headquarters Agreement.

XI. REPORT ON THE SESSION
(Agenda item 12)

52. At its 6th meeting, on 16 June, the SBI considered the draft report on its twelfth session (FCCC/SBI/2000/L.1).

53. At the same meeting, on a proposal by the Chairman, the SBI authorized the Rapporteur, with the assistance of the secretariat, to complete the report on the session, under the guidance of the Chairman.

XII. CLOSURE OF THE SESSION

54. At the final joint meeting of the SBSTA and the SBI, on 16 June, the Chairman of the SBI recalled that informal consultations had been held on capacity-building throughout the session, and that the issue would be on the provisional agenda of the subsidiary bodies for their thirteenth sessions.

55. At the same joint meeting, the chairmen of the subsidiary bodies recalled that at the first joint meeting on 12 June, Burkina Faso, supported by many other countries, had called for the subsidiary bodies to formally express sympathy and solidarity with the Government and peoples of southern Africa, particularly with Mozambique, where a cyclone had brought devastation and great loss of life. In response to this call, and having considered a proposal by the chairmen, the subsidiary bodies recommended a draft resolution on solidarity with southern African countries, particularly with Mozambique, to the Conference of the Parties for adoption at its sixth session (see annex II below). The chairmen of the subsidiary bodies urged Parties to give immediate effect to the provisions of the draft resolution, including the call for technical and financial assistance to affected countries, pending its formal adoption.

56. On the adoption of the recommendation of the draft resolution, a statement was made by the representative of Mozambique thanking the subsidiary bodies for their expression of solidarity.

57. Also at the final joint meeting, closing statements were made by representatives of 17 Parties, including one speaking on behalf of the African group, one speaking on behalf of the Alliance of Small Island States, one speaking on behalf of the European Community and its member States and one speaking on behalf of the Group of 77 and China. The Chairman of the SBI provided information to the subsidiary bodies on the schedule for inter-sessional work prior to COP 6.

Annex I

DRAFT DECISION FOR CONSIDERATION BY THE SUBSIDIARY BODY FOR IMPLEMENTATION AT ITS THIRTEENTH SESSION

Draft decision -/CP.6

Late payment of contributions: response options

The Conference of the Parties,

Recalling paragraph 8 (b) of its financial procedures,

Having considered the report of the Executive Secretary on late payment of contributions: response options (FCCC/SBI/2000/2),

1. *Takes note* of the initiatives already taken by the secretariat as indicated in document FCCC/SBI/2000/2, paragraph 17;

2. *Urges* all Parties to the Convention to note that contributions to the core budget are due on 1 January of each year, and to pay their respective contributions promptly and in full by that date;

3. *Requests* the Executive Secretary to continue using persuasion as well as other means, including posting the status of contributions on the Convention's web site in a more visible manner, to encourage Parties to make their contributions in time;

4. *Decides* that, with effect from 1 January 2001, Parties whose contributions are in arrears of one full year or more will not be eligible:

(a) For membership of the Bureau of the Conference of the Parties and its subsidiary bodies;

(b) To participate in the debates at its sessions and at sessions of its subsidiary bodies;

(c) For invitation to inter-sessional workshops and other meetings;

5. *Decides* that, with effect from 1 January 2001, Parties which would normally be eligible for funding, and whose contributions are in arrears for one full year or more, will not receive funding to attend any sessions;

6. *Also decides* that Parties which are least developed or small island States are exempt from paragraphs 4 and 5 unless their contributions are in arrears for two years or more;

7. *Decides further* that, with effect from 1 January 2001, delegations from Parties whose contributions are in the arrears for one year or more will be limited to two members at sessions of the Conference of the Parties and the subsidiary bodies until the arrears of the Party in question have been cleared.

Annex II

DRAFT RESOLUTION RECOMMENDED FOR ADOPTION BY THE CONFERENCE OF THE PARTIES AT ITS SIXTH SESSION

Draft resolution -/CP.6

Solidarity with southern African countries, particularly with Mozambique

The Conference of the Parties,

Noting with deep concern the considerable loss of life, devastation and destruction caused by Cyclone Eline in southern Africa, in particular Mozambique,

Aware of the high vulnerability of African countries to climate phenomena,

Concerned that global warming may contribute to the increasing frequency and severity of extreme weather events,

Noting the need for urgent action to improve early warning and disaster preparedness,

1. *Expresses* to the people and governments of southern Africa, in particular Mozambique, its strongest solidarity in the tragic circumstances they are facing, which demonstrate the need to take action to prevent and mitigate the effects of climate change, particularly in the most vulnerable countries;

2. *Invites* the international community, including intergovernmental and non-governmental organizations, to lend immediate assistance to affected countries;

3. *Urges* all governments, United Nations agencies, intergovernmental and non-governmental organizations, the private sector and society in general to continue their efforts to find permanent solutions to the factors which cause or may cause climate events, with the aim, *inter alia*, of bringing the Kyoto Protocol into force as early as possible;

4. *Invites* support for southern African States, particularly Mozambique, in their reconstruction;

5. *Invites* United Nations agencies and other Parties to assess and document the full impact, to the extent feasible, of Cyclone Eline on the people and economies of southern Africa, in particular Mozambique;

6. *Urges* all Parties to provide increased technical and financial assistance for the affected countries.

Annex III

REPORT OF THE JOINT WORKING GROUP ON COMPLIANCE ON ITS WORK DURING THE TWELFTH SESSIONS OF THE SUBSIDIARY BODIES, INCLUDING PROPOSALS FOR A TEXT ON COMPLIANCE

I. INTRODUCTION

1. The meetings of the Joint Working Group on Compliance (JWG) were presided over by Mr. Tuiloma Neroni Slade and Mr. Harald Dovland.

2. The co-Chairman of the JWG, Mr. Harald Dovland, opened the meetings of the JWG on 13 June. He recalled that Parties had held extensive discussions during the inter-sessional period on the development of a compliance system. A workshop was held from 1 to 3 March 2000 where Parties expressed their views on a compliance system. Based on these discussions, the co-Chairmen prepared a set of elements for the development of a compliance system under the Kyoto Protocol. These elements are contained in document FCCC/SB/2000/1, which served as the basis for discussions at the meetings of the JWG.

3. It was noted that the discussion during the week of informal meetings had been fruitful. The co-Chairmen prepared a paper for discussion by the JWG based on preliminary reactions and further proposals by Parties.

II. PROCEDURES AND MECHANISMS RELATING TO COMPLIANCE UNDER THE KYOTO PROTOCOL

1. Proceedings

4. The JWG held discussions on the development of procedures and mechanisms relating to a compliance system under the Kyoto Protocol. Statements were made by representatives of 20 Parties, including one speaking on behalf of the Group of 77 and China, one speaking on behalf of the European Community and its member States and one speaking on behalf of the Alliance of Small Island States.

2. Conclusions

5. On the basis of a proposal by the co-Chairmen, the JWG requested the co-Chairmen, with the assistance of the secretariat, to further develop the text on compliance contained in the annex to this report, to serve as the basis for negotiation, along with inputs from Parties, at the thirteenth sessions of the subsidiary bodies.

III. CLOSURE OF THE MEETINGS

6. At its 4th meeting on 15 June 2000, the co-Chairmen presented the draft report of the JWG. The JWG considered and adopted its report.

Annex

[PROCEDURES AND MECHANISMS RELATED TO COMPLIANCE UNDER THE KYOTO PROTOCOL]

[A COMPLIANCE SYSTEM FOR THE KYOTO PROTOCOL]

Section I. General provisions

Objective

Option 1

The objective of the [procedures and mechanisms related to compliance] [compliance system] [following provisions] is to facilitate, promote and enforce compliance by each Party with its [commitments] [obligations] [contained] in [and under] the Protocol, in particular the [commitment] [obligation] under [Articles 2 and 3] [Article 3.1] [Article 4.1] of the Protocol, [and, as appropriate, the rules, guidelines and procedures thereunder.]

Option 2

The objective of the [procedures and mechanisms related to compliance] [compliance system] [following provisions] is to facilitate, promote and enforce compliance with the Protocol.

Option 3

The objective of the [procedures and mechanisms related to compliance] [compliance system] [following provisions] is to facilitate and promote achievement of the ultimate objective of the Convention.

Nature

Option 1

The [procedures and mechanisms related to compliance] [compliance system] shall be credible, [fair], coherent, comprehensive, unified, effective, predictable, transparent and simple.

Option 2

The nature of the [procedures and mechanisms related to compliance] [compliance system] should not be expressly provided for in the operative text, as its nature will be implicit from the content of the text. Alternatively, its nature could be reflected in the preamble or in a decision accompanying the adoption of the [procedures and mechanisms related to compliance] [compliance system].

Principles

Option 1

The operation of the [procedures and mechanisms related to compliance] [compliance system] shall [be guided by] [be based on] the [principles set out in Article 3 of the Convention] [and the recognized principles under international law.] [and in particular shall]:

[1. Be proportionate, in that the procedures, mechanisms and consequences should take into account the cause, type, degree and frequency of non-compliance;]

[2. Adhere to the principle of common but differentiated responsibilities as defined in the Convention;]

[3. Treat all Parties that have undertaken the same [commitments] [obligations] in an equivalent manner;]

[4. Be based on principles of efficiency and due process allowing Parties, and in particular the Party concerned, an opportunity for a full, fair and timely [consideration and] resolution of compliance-related issues; [, including the presumption that a Party has complied with its commitments unless non-compliance is established.]]

[5. Preserve sovereign rights of Parties;]

[6. Provide for reasonable certainty; prevention of non-compliance; importance of domestic compliance and enforcement; creating appropriate incentives to comply; restoration to the environment of excess tonnes; automaticity; and transparency.]

Option 2

Principles governing the operation of the [procedures and mechanisms related to compliance] [compliance system] should not be expressly provided for in the text, as they are contained in the Convention and the Protocol and could be implicit from the content of the text, or be reflected in the preamble or in a decision accompanying the adoption of the [procedures and mechanisms related to compliance] [compliance system].

Scope of application

Option 1

The [procedures and mechanisms related to compliance] [compliance system] shall apply to all [commitments] [obligations] [contained] in [and under] the Protocol.

Option 2

The [procedures and mechanisms related to compliance] [compliance system] shall apply to all [commitments] [obligations] [contained] in [and under] the Protocol [as provided in this decision.] [, except where otherwise provided.]

Option 3

The [procedures and mechanisms related to compliance] [compliance system] shall apply to all [commitments] [obligations] [contained] in [and under] the Protocol, [and as appropriate, the rules, guidelines, and procedures thereunder [, except that all compliance and non-compliance issues with respect to the clean development mechanism (CDM) shall be dealt with exclusively by the executive board of the CDM]].

Option 4

The [procedures and mechanisms related to compliance] [compliance system] shall apply to [Articles 3.1, 4.1, 5, 7, 8, 6, 12, 17] [all [commitments]] [obligations] of Annex I Parties [contained] in [and under] the Protocol. All issues of compliance with other [commitments] [obligations] [contained] in [and under] the Protocol shall be addressed and determined by the multilateral consultative process established pursuant to Article 16.

Functions

The [procedures and mechanisms related to compliance] [compliance system] shall [complement] [be supplemental to] the other compliance-related provisions of the Protocol. [They] [It] shall perform the following [general] functions:

[1. [Decide] [Advise] which questions [regarding implementation submitted to it] shall be pursued [in accordance with agreed criteria];

2. Provide [for] advice and [facilitate] assistance to the Party concerned regarding its implementation of the Protocol;

[3. Determine questions raised related to application of any adjustment under Article 5.2;]

[4. Address specific questions arising under Articles [4], 6, [12] and [, if provided for by an amendment to the Protocol, Article] 17, including any questions in respect of Article 6.4;]

[5. Address [an allegation] that a Party is failing to meet the eligibility requirements contained in and under Articles 6, [12] and [, if provided for by an amendment to the Protocol, Article] 17;]

6. Address questions of [alleged] [non-compliance] [compliance] by [individual][Annex I] Parties [, and specific questions under Article 3.14]; and [determine] [make a recommendation as to] whether or not a Party is in compliance with Article [3.1] [Articles 2 and 3] [Article 4.1] [, through the subsidiary body on compliance to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (COP/MOP)];

7. [Determine] [Recommend] [and/or apply] appropriate outcomes or consequences [; and/or in the case of a mandatory outcome or consequence [concerning an Annex I Party], apply [it] [them] as set forth in paragraph ...]

[Recommend appropriate outcomes in accordance with section IV, paragraph 1, and apply appropriate consequences in accordance with section IV, paragraphs 2, 3 and 4.]

Section II. Establishment and structure

Establishment

Option 1

1. The [compliance body][1] is hereby established. [, as a subsidiary body pursuant to Article 13.4 [(h)] [j] of the Protocol.] [under Article 18.]

[2. The [compliance body] may establish such sub-groups or panels as it deems necessary to carry out its functions.]

Option 2

1. The [compliance body] is hereby established. [, as a subsidiary body pursuant to Article 13.4 [(h)] [j] of the Protocol.] [under Article 18.]

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[1] The formal title of the compliance body, whether compliance insititution, compliance authority, compliance committee, compliance system, procedures and mechanisms related to compliance, or other, is yet to be decided.

2. The [compliance body] shall consist of two branches, to be designated as branch 1 and branch 2. [, dealing with facilitation and enforcement, respectively.][2]

(a) Mandate of branch 1

Branch 1 shall provide [for] advice and [facilitate] assistance to individual Parties. [, and otherwise [decide] [make recommendations on] questions of implementation whose treatment may potentially lead to outcomes of [a non-mandatory] [facilitative] nature, set out in paragraph . . .]

(b) Mandate of branch 2

[Branch 2 shall [decide] [advise] on questions of implementation [of Annex I Parties] that warrant treatment of a more judicial nature and that can potentially lead to [pre-agreed] outcomes of [a mandatory] [enforcement] nature, as set out in paragraph... It shall address:]

[The role of branch 2 shall be limited to assessing:]

(i) Non-compliance with [Articles 2 and 3] [Article 3.1] of the Protocol;

(ii) The [alleged] failure [by Annex I Parties] to meet the eligibility requirements for one or more of the mechanisms under Articles 6, [12] [, if provided for by an amendment to the Protocol, Article] 17 [, including determining that a suspended Party may resume use of one or more such mechanisms];

[(iii) Non-compliance with Articles 5 and 7];

(iv) The application of adjustments under Article 5.2 [, in the event of a dispute];

[(v) Failure to achieve the emission level under Article 4];

[(vi) Failure to implement Article 3.14].

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[2] The formal titles of the branches, whether facilitative branch or consultative branch, enforcement branch or compliance branch, are yet to be decided.

Structure[3]

1. The [compliance body] [branch 1] [branch 2] shall consist of [no more than][...] [10] [12] [15] [21] [20] [25] [30] members [to be assisted by a roster of experts]. It shall be composed of experts of recognized competence in relevant fields, such as the scientific, technical, socio-economic and legal fields. [The [compliance body] [branch 1] [branch 2] may draw upon such other expertise as it deems necessary.]

2. The members of the [compliance body] [branch 1] [branch 2] shall be [nominated by Parties and shall act in their personal capacity] [representatives of Parties]. The [election] of members shall be based on [equal representation of the five United Nations regional groups] [one half to be elected from among Annex I Parties and one half to be [elected] from among non-Annex I Parties] [a larger proportional representation from among Annex I Parties] [within the group of Annex I and non-Annex I Parties representation shall be based on equitable geographic representation].

3. The members of the [compliance body] [branch 1] [branch 2] shall be [elected] by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (COP/MOP) for [2] [3] [4] years. The COP/MOP shall [elect] [..] members for a term of [two] years and [..] members for a term of [..] years. At two-year intervals thereafter, the COP/MOP shall alternately [elect] [..] new members for a term of [..] years. Outgoing members may be [re-elected] for one consecutive term.

Section III. Procedures

[Referral] [Submission] of questions to the [compliance body]

Option 1

1. Questions regarding the implementation of the Protocol may be submitted to the [compliance body] [branch 1 or branch 2], [through the secretariat,] with corroborating information:

[(a) In reports of the expert review teams under Article 8] [In questions identified in accordance with relevant provisions under Article 8];

(b) By any Party with respect to implementation of its own [commitments] [obligations];

[(c) By any Party with respect to the implementation of another Party's [commitments] [obligations] [only with respect to branch 1];

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[3] The composition and expertise of each branch will depend on the determination of options under section II, "Establishment".

[(d) By the COP/MOP [, except that a Party may not participate in the decision with respect to a question directly concerning itself];

[(e) By a body of representatives established by the COP/MOP];

[(f) By the executive board or other bodies established under Articles 6, 12 or 17.]

[(g) By the secretariat].

[2. The secretariat shall receive the reports of the expert review teams under Article 8; and shall transmit [any question regarding implementation identified in the report] [all the reports] to the [compliance body].]

Option 2

[The following are questions of implementation that can be submitted to the [compliance body] [branch 1 or branch 2]]:

[1. Questions of implementation indicated in reports prepared by expert review teams as listed by the secretariat];

[2. Questions raised by a Party concerning the implementation of its obligations under the Protocol];

[3. Questions raised by a Party or Parties concerning the implementation of the obligations of another Party under the Protocol].

Preliminary examination of questions

[1. The [compliance body] [chairperson of the [compliance body]] [chairpersons of branches 1 and 2] [screening panel] [screening panel set up by the COP/MOP, with equal representation of the five United Nations regional groups] shall forward the question submitted under paragraphs... to the relevant branch in accordance with the mandate of that branch.] [, where multiple questions submitted raise the same type of issues (e.g. specific methodologies, interpretation of the same provisions of the Protocol) the matter [may][shall] be referred to the Subsidiary Body for Implementation (SBI) or the Subsidiary Body for Technological and Technical Advice (SBSTA).]

2. The [compliance body] [relevant branch] [screening panel] [screening panel set up by the COP/MOP, with equal representation of the five United Nations regional groups] shall make a preliminary examination of questions submitted to it, other than those raised by a Party concerning itself [, to ensure that the questions are supported by sufficient information], [in accordance with agreed criteria [established] [adopted] by the [compliance body] [COP/MOP]] and [are otherwise not *de minimis* or ill-founded questions].

[3. Preliminary examination of questions shall be completed within [...] weeks after receiving [a question of implementation].]

[4. Following this preliminary examination, [branch 2] may forward a question within its mandate to [branch 1] for consideration on how to address that question. If the matter at issue has not been resolved within [x] weeks, [branch 1] shall return that question to [branch 2] for its determination.]

Proceedings [of the compliance body]

1. *Decision-making*

Option 1

The members of [the compliance body] [branch 1] [branch 2] shall make every effort to reach agreement on its [decisions] [recommendations] by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the decision shall as a last resort be adopted by a [three-quarters majority] vote of [the Parties] [members] present and voting at the meeting.

Option 2

The [compliance body] [branch 1] [branch 2] shall make its [decision] [recommendation] [by consensus] [by [...] majority of the members of the [compliance body][branch1][branch 2] present and voting] [by double majority of the members from Annex I Parties and the members from non-Annex I Parties] [according to the rules of the COP/MOP].

[2. *Participation of Parties*[4]

The Party [in question] [concerned] shall be entitled to [nominate a] [designate one or more] person [s] to represent it during the consideration of its case by [the compliance body] [branch 1] [branch 2], [and shall have the right through its representative to call, require the attendance of, and question witnesses.] The Party [in question] [concerned] shall [be given the opportunity] [be entitled] to comment on [any information used by the [compliance body] [branch 1] [branch 2] as a basis for its deliberation and on] the draft conclusions and recommendations of [the compliance body] [branch 1] [branch 2] but shall not take part in the drafting and adoption of its [decisions] [recommendation] on that matter.]

3. *Avoidance of conflict of interest*

No member of [the compliance body] [branch 1] [branch 2] who is a national of a Party that is involved in a matter before the [compliance body] shall take part in the [consideration,]

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[4] The participation of Parties may be different, and may need to be provided for, in respect of the operation of branch 1 and branch 2.

drafting and adoption of any decision [on that matter] [in which they have a direct or indirect interest].

4. *Sources of information*

Option 1

(a) The [compliance body] may seek information from the following sources:

(i) Reports by expert review teams under Article 8 of the Protocol;

(ii) Information provided by Parties concerned;

[(iii) Other [experts,] and [non-governmental] organizations [with relevant and specified knowledge and expertise related to the Protocol and the Convention]; and

[(iv) Any other source that it considers to be appropriate.]

[(b) The [compliance body] shall ensure the confidentiality of [any information that it has received in confidence].]

Option 2

(a) The [compliance body] shall base its deliberations on:

(i) Reports by expert review teams under Article 8 of the Protocol;

(ii) Information provided by Parties concerned;

(iii) Relevant reports of the COP/MOP and its subsidiary bodies.

(b) The [compliance body] may [seek] [receive] additional information from:

[(i) Other experts and organizations [, as appropriate];] and

[(ii) Any other source that it considers to be appropriate.]

[(c) The [compliance body] shall ensure the confidentiality of [any information that it has received in confidence].]

5. [The COP/MOP shall develop] [[This decision shall set] detailed rules for the operation of the [compliance body] [branch 1] [branch 2], including additional rules related to other procedural matters, as well as proceedings for appeal set out in paragraph ....

6. *Other procedural arrangements*

Option 1

Procedural arrangements related to [facilitation] [branch 1] and [enforcement] [branch 2] are contained in annexes a and b. An expedited procedure related to cases under Articles 6, 12 and 17 is contained in annex c.

Option 2

(a) Procedural arrangements related to [only] [facilitation] [branch 1]

The provisions now contained in annex a might be set out here, with necessary modifications.

(b) Procedural arrangements related to [enforcement] [branch 2]

The provisions now contained in annex b might be set out here, with necessary modifications.

(c) Expedited procedure with respect to questions under Articles 6, 12 and 17.

The provisions now contained in annex c might be set out here, with necessary modifications. This procedure might be dealt with by branch 2.

Appeal

Option 1

1. An appeal [procedure] shall be available for [all] decisions involving outcomes or consequences of [a mandatory] [enforcement] nature [relating to non-compliance with Article 3.1].

2. The appeal [procedure] shall be [decided][carried out] by [a [standing] [ad hoc] appellate body] [the COP/MOP]. [The COP/MOP may agree by consensus to override the decision on appeal.] [The Party whose compliance or non-compliance is under consideration may not participate in any decision on appeal directly concerning that Party.]

Option 2

There should be no procedure for appeal.

COP/MOP

1. The [compliance body] shall report [through the secretariat] on its [advisory] activities [and judicial work] to each ordinary session of the COP/MOP;

2. The COP/MOP shall consider [decisions] [reports] [and conclusions] of the [compliance body], [including any issues regarding implementation [as well as trends of problems] that may have implications for the work of the subsidiary bodies];

[3. The COP/MOP [shall] [may] [accept] [take note of] [receive] [modify] [or reject] the [reports] [decisions] of the [compliance body], [unless the COP/MOP decides by consensus not to do so.] [, except that a Party that is a subject of appeal may not vote on appeal.]

[4. The COP/MOP shall provide general policy guidance [or background] to the [compliance body].]

True-up period

1. [...] [one] month[s] shall be allowed after [the end of the commitment period] [the publication of the final report of the expert review of the inventory of the last Party to be reviewed for the last year of the commitment period], [other], to be known as the true-up period.

2. During the true-up period, in order to fulfil its commitments under Article 3.1, any Party may:

(a) [Acquire [and transfer] parts of assigned amount from the commitment period in question];

(b) [Continue to utilize Articles 6, [12] and [, if provided for by an amendment to the Protocol, Article] 17 (provided it has not been found ineligible to participate in any mechanism under those Articles)];

(c) [Make a voluntary payment into a climate change fund(s)].

Section IV. Outcomes and consequences [of non-compliance or potential non-compliance, taking into account the implications of Article 18]

1. The [compliance body] [branch 1] may, depending upon the particular case before it, [decide] [make recommendations] upon one or more [of the following [outcomes and] [facilitative] consequences:

(a) Provision [of] [for] advice and [facilitating] assistance to individual Parties regarding implementation of the Protocol;

(b) [Facilitation of financial and technical assistance, including technology transfer and capacity-building, to [non-Annex I] Parties;]

(c) [Making recommendations];

(d) Publication of non-compliance or potential non-compliance;

(e) Issuing of cautions;

[(f) Initiation of the enforcement procedure set out in annex b]

[[Mandatory] consequences shall not be applied to non-Annex I Parties]

2. [The [compliance body] [branch 2] shall apply adjustments, where necessary.]

3. The [compliance body] [branch 2], in the case where it has [determined] [established] that [a Party] [an Annex I Party] has failed to meet certain eligibility requirements related to the mechanisms under Articles 6, [12] and [, if provided for by an amendment to the Protocol Article] 17, shall [make a recommendation regarding] [suspend] the [Annex I] Party's eligibility for the mechanisms in question, in accordance with the provisions in or under Articles 6, [12] and/or [, if provided for by an amendment for the Protocol, Article] 17, as applicable.]

Or

[If an [Annex I] Party is found by the [compliance body] [branch 2] to be in breach of any of the eligibility requirements under Articles 6, [12] [and] [or] [, if provided for by an

amendment to the Protocol, Article] 17, [that Party] [and other members of that Party's Article 4 arrangement] may not:

(a) [Transfer or] acquire parts of assigned amount; [or]

(b) [Transfer or] acquire emission reduction units; [or]

(c) Acquire certified emission reductions;

in accordance with the provisions of Article 3, until the [compliance body] [branch 2] is satisfied that the Party is in full compliance with the relevant requirements.]

4. If [the compliance body] [branch 2] [appellate body] determines that a Party, following the true-up period, has not complied with [Article 3] [Article 3.1] [Article 4.1] of the Protocol, it shall [apply] [request the Party to choose] [one of] the following consequences [, or a combination thereof] [,taking into account the cause, type, degree and frequency of such non-compliance] [unless the Party can demonstrate to the satisfaction of the [compliance body] [branch 2] that the cause, type, degree or frequency of its non-compliance makes it inappropriate to do so]:

[(a) *Publication of non-compliance*

The [compliance body] [branch 2] shall notify [through…] all Parties to the Protocol of the details of the Party's non-compliance; and publish its determination, including the reasons for it on the UNFCCC web site.]

[(b) *Recommendation of policies and measures*

Recommend policies and measures [, taking into account Article 2.3 of the Protocol] [with the aim...].]

[(c) *Restoration of excess [tonnes]*

Option 1

Determine that [1.3] [1.x] [x] times the [number of] excess tonnes shall be deducted from the Party's assigned amount for the commitment period following the period for which the non-compliance with Article 3.1 occurred.]

Option 2

[Purchase units of assigned amount originating in the first commitment period and apply them towards meeting their Article 3.1 [commitments] [obligations] at a penalty rate of 1.x; or

Purchase units of assigned amount originating in the second commitment period and apply them to meeting their Article 3.1 [commitments] [obligations] at a penalty rate of 1.y; or

Purchase a combination of units of assigned amount originating in both the first and second commitment periods and apply them toward meeting their Article 3.1 [commitments] [obligations] at their respective penalty rates, as set out above.]

[(d) *Compliance action plan*

Option 1

The Party in question shall, within [three] months of the determination of the [compliance body] [branch 2], develop and commit itself to a compliance action plan [, taking into account Article 2.3 of the Protocol,] approved by the [compliance body] [branch 2], which shall include, *inter alia*:

(i) An analysis of the reasons for the Party's non-compliance;

(ii) Policies and measures that the Party intends to implement in order to restore [1.x] times the excess emissions and an analysis of their expected impact on the Party's greenhouse gas emissions;

(iii) A quantified assessment of the use of each of the mechanisms under Articles 6, [12] and [, if provided for by an amendment to the Protocol, Article] 17 during the commitment period;

(iv) A declaration not to make transfers under Article 3, paragraph 11, for the duration of the implementation of the compliance action plan;

(v) Detailed information on the economic dimension of the implementation of any action under (ii) or (iii) above;

(vi) A timetable for implementing the measures within a time-frame not exceeding [three] years, including clear benchmarks for measuring annual progress in the implementation;

(vii) An assessment of the compatibility of the compliance action plan with the strategy developed by the Party to comply with its obligations during the commitment period in which the compliance action plan is implemented.]

Measures implemented under the compliance action plan shall not contribute to any Party's compliance with its quantified emission limitation or reduction commitments during the commitment period in which the compliance action plan is implemented.

The Party concerned shall submit a progress report on the implementation of the compliance action plan to the [compliance body] [branch 2] annually no later than 15 April. On the basis of the progress report, the [compliance body] [branch 2] shall decide on further recommendations, measures or consequences, as appropriate.]

Option 2

The Party in question shall, [within a time period] after the determination of non-compliance, submit to [the compliance body] [branch 2] a compliance action plan setting forth one or more means by which it intends to restore the tonnes in question.

The means may include, for example, use of one or more mechanisms under Articles 6, [12] and [, if provided for by an amendment to the Protocol, Article] 17, particular measures, and non-allocation of tonnes under a domestic cap-and-trading system [, and use of a voluntary compliance fund].

The Party concerned shall submit a progress report on the implementation of the compliance action plan to the [compliance body] [branch 2] annually no later than [..]. On the basis of the progress report, the [compliance body] [branch 2] shall determine whether the requisite tonnes have been restored.

In the case where [the compliance body] [branch 2] determines [within a specific time-frame,] that some or all of the requisite tonnes have not been restored, it shall deduct the remaining tonnes from the Party's assigned amount for the commitment period following the period for which the non-compliance with Article 3.1 occurred.

Option 1

[(e) *Loss of access to the mechanisms under Articles 6, [12] and 17*

The Party may not make any transfer or acquisition under Article 3, above a level and for a period of time to be determined by [the compliance body] [branch 2].]

Option 2

[(e) *Loss of eligibility to transfer tonnes*

Until the Party has demonstrated to the [compliance body][branch 2] that it will have a surplus of assigned amount in the subsequent commitment period, its eligibility to transfer assigned amount under Article 17 shall be suspended.]

[(f) *Compliance fund*

[A compliance fund is hereby established.]

[[Each] [Every] [The] Party [shall] [may] make payments into the compliance fund at a rate that equals [...] per excess tonne of carbon equivalent multiplied by a factor of [1.x][x]].

The compliance fund shall be administered [nationally][or][internationally].

The fund shall disburse its income and any interest it earns to reduce anthropogenic emissions of greenhouse gases. The emissions reductions achieved shall not contribute to any Party's compliance with its quantified emission limitation or reduction commitments.]

[(g) *Financial penalty*]

[(h) *Suspension of rights and privileges*]

[(i) *Application of Article 4.5 and 4.6*

If one or more Parties operating under Article 4 are found not to be in compliance with Articles 5 and 7, each Party to an agreement under Article 4 shall be responsible for its own level of emissions set out in the agreement.

In accordance with Article 4.6 of the Protocol, any non-compliance consequences under this paragraph shall apply to both the regional economic integration organization and any Party that has exceeded its level of emissions as notified in accordance with Article 4.

If one or more Parties operating under Article 4 have been found to have exceeded their respective levels of emissions, the Parties operating under such agreement shall not be able to

operate under an Article 4 agreement with respect to the commitment period following the period for which the non-compliance with Article 3.1 occurred; and Annex B commitments shall apply.

If one or more Parties operating under Article 4 have been found to have exceeded their respective levels of emissions, another Party operating under that Article 4 agreement shall be able to carry over the assigned amount under Article 3.13 only to the extent that the difference between its emissions and its assigned amount under Article 3 is greater than the amount by

which the non-complying Parties under Article 4 have exceeded their respective levels of emissions.]

[(j) *Compliance reserve*]

Section V. Other provisions

Secretariat

The secretariat shall perform the following functions:

(a) Channel information to the [compliance body];
(b) Service the meetings of the [compliance body];
(c) Act as the channel of communication with other Protocol bodies;
[(d) Refer questions to the [compliance body]]

Relationship with Article 16 of the Protocol

[The multilateral consultative process under Article 16 shall provide advice and facilitate assistance to non-Annex I Parties with respect to issues related to their compliance/non-compliance under the Protocol.]

Relationship with Article 19 of the Protocol

The [compliance body] shall operate without prejudice to Article 19 of the Protocol.

[Evolution] [Modification] [Amendment]

[[Subject to Article 18], the [procedures and mechanisms related to compliance][compliance system] may be modified[5] by consensus of the Parties to the Protocol, taking into account any amendments to the Protocol, decisions of the COP/MOP and experience gained with the working of the process.]

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[5] Depending upon the legal form in which the regime is adopted.

Adoption of procedures and mechanisms related to compliance[a]

[Annex a

PROCEDURAL ARRANGEMENTS RELATED TO [ONLY] [FACILITATION] [BRANCH 1]

Option 1

1. Cases related to facilitation [set out in the mandate of branch 1 (see section II, paragraph....)] shall be dealt with by [the compliance body] [branch 1] in accordance with the procedures in this annex.

2. Where a Party wishes to request advice or facilitation from [the compliance body] [branch 1] concerning implementation of its own obligations under the Protocol, it may contact [the compliance body] [that branch], indicating the nature of the issue and any relevant circumstances.

3. With respect to questions raised in reports of the expert review teams under Article 8, by a Party regarding another Party's implementation of its commitments under the Protocol, or by the forwarding by [branch 2] of a question to [branch 1] in accordance with paragraph...., the [compliance body] [branch 1] shall notify the Party in question and provide a copy of relevant documentation.

4. The Party may [have the right to] participate in the work of [the compliance body] [branch 1] and provide any information in writing.

5. [The compliance body] [Branch 1] may request information from relevant sources. Non-governmental organizations and others with relevant information may [be invited to] provide information to the [compliance body] [branch]. Information received by [the compliance body] [branch 1] shall be made available to the Party in question.

6. With respect to questions of implementation raised by a Party about implementation of its own [commitments] [obligations], the Party may request that the advice or facilitation be provided in confidence. [The compliance body] [Branch 1] shall honour that request, although the nature of the work performed shall be reported to the COP/MOP in the [compliance body's] annual report.

7. [The compliance body] [Branch 1] may specify outcomes set forth in section IV, paragraph.... In such circumstances it shall make public the nature of the implementation issues it reviewed, its conclusions, and the outcomes, if any, it has determined.

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[a] Formal steps for the adoption of any procedures and mechanisms related to compliance would need to be decided.

Option 2

The [compliance body] shall review and consider any questions submitted to it concerning a Party's implementation of its [commitments] [obligations] under the Protocol, along with any supporting information and, with a view to securing an amicable solution of the matter on the basis of respect for the provisions of the Protocol, decide whether to apply one or more of the outcomes or consequences set out in section IV, paragraph ....]

[Annex b

PROCEDURAL ARRANGEMENTS RELATED TO [ENFORCEMENT][BRANCH 2]

Option 1

1. Cases related to enforcement [set out in the mandate of branch 2 (see section II, paragraph...)] shall be dealt with by [the compliance body] [branch 2] in accordance with the procedures in this annex.

2. After preliminary examination of the questions set out in section III, paragraph... , if [the compliance body] [branch 2] decides that these questions require further proceedings, it shall notify the Party in question through the secretariat and provide a statement of relevant issues.

3. [The compliance body] [branch 2] may request information, including clarification, from relevant sources (such as reports from expert review teams under Article 8). Such information shall be made available to the Party in question and to the public. Other Parties, non-governmental organizations and others with relevant information [shall be given the opportunity] [may be invited] to provide information which [the compliance body] [branch 2] shall make available to the Party in question and to the public. The Party shall be afforded the opportunity to respond in writing to any information considered by the [compliance body] [branch].

4. Within [x] weeks from the issuance by [the compliance body] [branch 2] of the notification, the Party in question may provide a written submission in which it presents the facts and its arguments, including any rebuttals of information before the [compliance body] [branch].

5. If so requested by the Party in question in its written submission, [the compliance body] [branch 2] shall hold a hearing. At the hearing, [the compliance body] [branch 2] shall ask the Party in question to present its views. The Party in question may present expert testimony at the hearing.

6. [The compliance body] [Branch 2] may at any time put questions to the Party in question and ask it for explanations either in the course of a hearing or in writing.

7. Within [x] weeks from the Party's written submission, or from the date of the hearing if one has been held, or within [x] weeks from the issuance of the notification if the Party has not

provided a written response, [the compliance body] [branch 2] shall issue a preliminary finding containing its conclusions and reasons therefor.

8. Any findings of [the compliance body] [branch 2] shall be based on the record before it.

9. Within [x] weeks from the date of the issuance of the preliminary finding, the Party in question may provide a further written submission. Within [x] weeks from receiving this submission, or within [x] weeks from the issuance of the preliminary finding if the Party has not provided a further written submission, [the compliance body] [branch 2] shall issue its final decision.

10. [If [the compliance body] [branch 2] decides that the Party in question is not in compliance with Article 3.1, the Party may appeal in accordance with the procedures set out in section III, paragraph.... [Time limits and other provisions for appeal.]]

11. In the case where [the compliance body] [branch 2] has determined that a Party, following the true-up period, is not in compliance with Article 3.1, it shall apply the outcomes specified in section IV, paragraph....

12. In addition to applying the outcomes set forth in section IV, paragraph..., [branch 2] may, at its discretion, decide to forward the case to branch 1 for further consideration.

13. [The compliance body] [branch 2] may prepare rules of procedure that are consistent with the procedures contained herein. Such rules of procedure may be implemented once approved by the COP/MOP and with any modifications made by the COP/MOP.

Option 2

1. Non-compliance with Article 3.1 and the imposition of any outcomes or consequences included in section IV, paragraph... shall be determined in accordance with the enforcement procedure set out in this annex.

2. [Any Party may initiate the enforcement procedure with regard to the compliance of another Party] with its commitments under Article 3.1 of the Protocol, by requesting, through the secretariat, the establishment of an enforcement panel. Any such request must be supported by corroborating information.

3. An enforcement panel shall be established by [the compliance body] at its first meeting following the receipt by the secretariat of a request from a Party, unless [the compliance body] decides by consensus not to establish a panel.

4. Where [the compliance body] concludes that it has sufficient corroborating information to demonstrate the non-compliance of a Party with its commitments under Article 3.1, it may establish an enforcement panel on its own initiative.

5. When [the compliance body] has established an enforcement panel on its own initiative, the matter shall be taken forward by the chairman of [the compliance body]. When the procedure has been initiated at the request of a Party, the matter shall be taken forward by that Party.

6. Each enforcement panel shall be composed of three well-qualified experts, selected by the Executive Secretary of the secretariat from a roster nominated by the COP/MOP.

7. The panel shall make an assessment of the compliance of the Party concerned with its commitments under Article 3.1 and, if it determines that the Party concerned is in breach of these commitments, shall apply one of the consequences set out in section IV, paragraph... taking into account the cause, type, degree and frequency of such breach.

8. Rules of procedure for the enforcement panel shall be drawn up by the COP/MOP prior to the commencement of the first commitment period.]

[Annex c

EXPEDITED PROCEDURE WITH RESPECT TO QUESTIONS UNDER ARTICLES 6, 12 AND 17

Option 1

1. The expedited procedure with respect to questions under Articles 6, [12] and [, if provided for by an amendment to the Protocol, Article] 17 shall be dealt with by [branch 2].

2. When considering and deciding upon cases related to eligibility requirements for the mechanisms under Articles 6, [12] and [, if provided for by an amendment to the Protocol, Article] 17, [branch 2] shall conduct its proceedings in an expedited manner,[7] while respecting due process. Specific time-frames for such proceedings shall be [decided by the COP/MOP] [as follows...].

3. [Branch 2], in the case where it has determined that a Party does not meet the eligibility requirements for one or more of the mechanisms set forth in or under Articles 6, [12] and [, if provided for by an amendment to the Protocol, Article] 17, shall apply the outcome set out in section IV, paragraph....

4. [Branch 2], after determination of non-compliance with the eligibility requirements for one or more of the mechanisms set forth in or under Articles 6, [12] and [, if provided for by an amendment to the Protocol, Article] 17, may decide to forward the case to branch 1 to assist the Party in question in meeting the relevant eligibility requirements.

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[7] The exercise of the expedited procedure might modify certain provisions with respect, for example, to certain time-frames, written submissions, hearings, means of communication and appeals contained in option 1 of annex b.

5. [Branch 2] shall reinstate a Party's eligibility upon its determination, either at the request of the Party in question or at the request of [branch 1] where a case has been forwarded to it by [branch 1], that the Party meets the relevant eligibility requirements.

Option 2

1. Prior to the start of the first commitment period, the [compliance body] shall, within eight weeks of the date of completion of a review under Article 8, and based on the information submitted by the expert review teams, eligibility criteria established under..., and any other relevant information:

(a) Decide that the Party has fulfilled the eligibility criteria set out in ...; or

(b) Make a preliminary finding that the Party does not fulfil one or more of the criteria.

It shall forthwith inform the Party of its decision or preliminary finding and make it available to all the other Parties.

2. During the first commitment period, the [compliance body] shall, based on the information submitted by the expert review teams, review any other relevant information, make decisions on the continuing observance of eligibility criteria established under ... for transfers and acquisitions under the provisions of Article 3.

3. The [compliance body] shall:

(a) Within six weeks of the date on which the submission of the annual greenhouse gas inventory and the annual greenhouse gas inventory report of a Party becomes due, or on which the secretariat registers receipt of such a submission, whichever shall be the earlier, or

(b) Within six weeks of being notified in writing by an expert review team of a problem,

decide that the Party has fulfilled the eligibility criteria or make a preliminary finding that the Party is in breach of one or more of the criteria. It shall forthwith inform the Party of its decision or preliminary finding and make it available to all the other Parties.

4. If a Party in respect of which a preliminary finding has been made does not submit comments on the finding in writing to the [compliance body] within four weeks of the date on which it was informed of it, the [compliance body] shall forthwith confirm its preliminary finding and impose consequences in accordance with section IV, paragraph ....

5. If a Party in respect of which a preliminary finding has been made submits comments on the finding in writing to the [compliance body] within four weeks of the date on which it was

informed of it, the [compliance body] shall, within four weeks of the date on which it received the comments, consider them and any representations made in due time by any other Party and:

(a) Decide that the Party has fulfilled the eligibility criteria for each of the mechanisms in question; or

(b) Confirm, in whole or in part, its preliminary finding and apply outcomes in accordance with paragraph.....

It shall forthwith inform the Party of its decision or preliminary finding and make it available to all the other Parties.

Option 3

General

1. The [compliance body] [branch of the compliance body] shall consider questions with respect to the mechanisms under Articles 6, [12] and [, if provided for by an amendment to the Protocol, Article] 17, and for this purpose shall elect a chairperson and a vice-chairperson. In addition, it shall determine the order by which a chairperson is to be chosen in the event of both the chairperson and the vice-chairperson not being available.

2. The [COP/MOP] [compliance body] [branch of the compliance body] shall agree upon a list of experts from which substitute members may be drawn when some of the members of the [compliance body] [branch of the compliance body] are not available during the period of time to consider a question related to the mechanisms under Articles 6, [12] and [, if provided for by an amendment to the Protocol, Article] 17. The experts in the list shall be divided into two groups; those from Annex I Parties and those from non-Annex I Parties. For each group, the [COP/MOP] [compliance body] [branch of the compliance body] shall agree upon an order in which experts are drawn when needed.

3. All the communications in the expedited procedure shall be in English. As far as possible they should be in electronic form, or by fax.

Process and schedule

4. The expedited process shall be completed within eight weeks. The approximate time allocated for each step shall be as follows:

(a) Screening: one week;

(b) Selection of members to consider the question: one week;

(c) Initial comments by Parties: one week;

(d) E-mail discussion: two weeks;

(e) Drafting of the conclusion with reasons by the chairperson: one week;

(f) Opportunity to make objections to the [compliance body] [branch of the compliance body] in respect of its conclusion: one week;

(g) Preparation for the [meeting] [discussion] [hearing] one week. The [meeting] [discussion] [hearing] shall be scheduled after receipt of comments, if the initial communications had failed to reach a conclusion.

Information to Parties

5. The Party in question shall be informed of every step in the process.

6. The Party shall have every opportunity to provide its views, and/or additional information, during the period of initial comments.

Conclusion

7. The [compliance body] [branch of the compliance body] shall make every effort to reach agreement by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the decision shall, as a last resort, be adopted by a vote [by a double majority of the members of Annex I Parties and the members of non-Annex I Parties].

8. The chairperson shall send decisions, with reasons, to the Parties through the secretariat.
Appeal

9. The Party concerned may appeal the decision of the [compliance body] [branch of the compliance body] in accordance with the procedure set out in section III, paragraph....

Option 4

1. The eligibility panel established under Section II, paragraph..., shall deal, in an expedited manner, with all questions relating to compliance of Annex I Parties with questions specific to mechanisms under Articles 6, [12] and [, if provided for by an amendment to the Protocol, Article] 17. Disputes between the executive board (or other body established for the purposes of the other mechanisms) and a Party relating to the allocation of certified emission reductions shall be referred to the eligibility panel.

2. The eligibility panel shall determine appropriate provisional measures to safeguard the functioning of the mechanisms under Articles 6, [12] and [, if provided for by an amendment to the Protocol, Article] 17.

3. The eligibility panel shall determine the most suitable consequence or outcome to deal with a particular case.]

Annex IV

LIST OF DOCUMENTS BEFORE THE SUBSIDIARY BODY FOR IMPLEMENTATION AT ITS TWELFTH SESSION

FCCC/SBI/1999/14	Report of the Subsidiary Body for Implementation on its eleventh session, Bonn, 25 October - 5 November 1999
FCCC/SBI/2000/1	Provisional agenda and annotations. Note by the Executive Secretary
FCCC/SBI/2000/2	Administrative and financial matters. Late payment of contributions: response options. Note by the Executive Secretary
FCCC/SBI/2000/3	National communications from Parties included in Annex I to the Convention. Experience with the review of second national communications
FCCC/SBI/2000/4	Arrangements for intergovernmental meetings. Note by the Executive Secretary
FCCC/SBI/2000/INF.1	National communications from Parties not included in Annex I to the Convention. Provision of financial and technical support. Activities to facilitate the provision of financial and technical support to non-Annex I Parties for the preparation of national communications
FCCC/SBI/2000/INF.2	National communications from Parties not included in Annex I to the Convention. Provision of financial and technical support. Information on relevant action by the Global Environment Facility
FCCC/SBI/2000/INF.3	Financial mechanism. Progress report on the review by the Global Environment Facility of enabling activities
FCCC/SBI/2000/INF.4	National communications from Parties not included in Annex I to the convention. Report of the first meeting of the Consultative Group of Experts. Report of the first regional workshop of the Consultative Group of Experts on National Communications from Non-Annex I Parties of the Latin America and the Caribbean region

FCCC/SBI/2000/INF.5	Administrative and financial matters. Income and budget performance in the biennium 2000-2001. Status report on receipt of contributions from Parties
FCCC/SBI/2000/INF.6	National communications from Parties included in Annex I to the Convention. Progress report on the in-depth reviews of second national communications
FCCC/SB/2000/1	Procedures and mechanisms relating to compliance under the Kyoto Protocol. Note by the co-Chairmen of the Joint Working Group on Compliance
FCCC/SB/2000/2	Implementation of Article 4.8 and 4.9 of the Convention (decision 3/CP.3 and Articles 2.3 and 3.14 of the Kyoto Protocol). Note by the chairmen of the subsidiary bodies
FCCC/SB/2000/3	Mechanisms pursuant to Articles 6, 12 and 17 of the Kyoto Protocol. Text for further negotiation on principles, modalities, rules and guidelines. Note by the chairmen
FCCC/SB/2000/INF.4	Report on the progress in the review by the Global Environment Facility of its enabling activities, its capacity-building activities in its normal work programme, its Country Dialogue Workshops and its Capacity Development Initiative
FCCC/SB/2000/MISC.1 and Add.1-2	Mechanisms pursuant to Articles 6, 12 and 17 of the Kyoto Protocol. Principles, modalities, rules and guidelines for the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol. Submissions from Parties
FCCC/SB/2000/MISC.2 and Corr.1	Procedures and mechanisms relating to compliance under the Kyoto Protocol. Submissions from Parties
FCCC/SBI/2000/L.1	Report on the session. Draft report of the Subsidiary Body for Implementation on its twelfth session

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